

*Liturgies, England, Church of - Particular Services*  
**THE  
CASE**

Of Observing such

**Fasts and Festivals**

As are appointed by the

**King's AUTHORITY,**

And of Using the

**P R A Y E R S**

Provided for such Occasions,  
considered ;

**IN ANSWER**

To a late Question, *Whether the Occasional Offices for* **Rob. 5. Jan. 30. May 29.** or any other, put out by the same Order, can safely be used, &c.

**L O N D O N :**

Printed for **J. Roberts** in *Warwick-Lane,*  
**MDCCXXI.**

**Price Four-Pence.**

THE  
CLASS

Of Observing such

Fairs and Festivals

As are appointed by the

King's Authority

And of the

PARLIAMENTS



Provided for  
consideration

IN ANSWER

To a late Question, Whether the  
Officers of the Museum, 1753  
or any other, had any power to  
Order, can lately be made.

LONDON

Printed for J. Roberts in Strand Lane  
MDCCLXXI

Price Four-Pence.

## ADVERTISEMENT.

**T**HE following Papers are on a Subject that the Writers of them never expected to see contested by any who professed themselves Members of the Church of England. The first Opposer of this Authority of our Princes, if rather he did not oppose the Bishops, that I have met with, was that violent Male-content Henry Burton, A. D. 1636, who represented it as an Innovation to make any Alterations in the Form of Thanksgiving for the Deliverance on Novemb. 5. appointed in the preceeding Reign by King James's Authority. The next that I have known is the famous Edmund Hickeringill, who contended that All are Nonconformists, and liable to Indictments, and Loss of their Liberty as well as Loss of their Livings, that pray before or after Sermon, in other Form or Order than is set down in the Book of Common-prayer. In the Year 1684, Dr. George Hickes, in a Sermon preach-

Black  
Noncon-  
formist.  
P. 35.

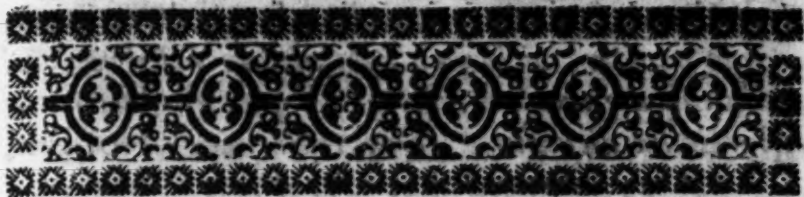


## ADVERTISEMENT.

ed on Jan. 30, before the Lord Mayor, reckons this Notion, that the King has no Power to ordain a Fast or Festival among the Principles of only Antiepiscolal Writers, and Popish and damnable Positions. But Anger and Resentment are the same in all Bosoms where they rest, and at all Times when indulged and given way to: And Day unto Day sheweth this Knowledge that Nature will rebell against Principle. However, it's hoped it will not be thought in this teche Age any Argument of Disaffection to this Church, that her Clergy are here vindicated from the Charge of any such Transgressions, as whereby they incur the severe Penalties of the Acts of Uniformity.







The Question is; Whether the Occasional Offices Wheatly's  
 for Novem. 5. Jan. 30. May 29. Au- Rational  
 gust 1. or any other put out by the same Or- Illustra. of  
 der, can safely be used, were it not for the Prayer, p.  
 general Connivance, or rather Concurrence <sup>522.</sup>  
 of the Two other Parts of the Legislative Au-  
 thority.



IN this Case there are these Two Things to be considered;

I. What Authority the Kings of England have to indict or appoint occasional Holy-days.

II. What Authority they have to command Publick Prayers to be used suitable to such Occasions.

I. What Authority the Kings of England have to indict or appoint occasional Holy-days. The Canonists distinguish betwixt *feriæ solennes* and *feriæ repentinae*. The Question is not concerning the former, which are already settled by Act of Parliament. But what is doubted, is what Power our Kings have to proclaim an occasional Fast or Thanksgiving, or to order the Days of their Inaugurations to be publicly celebrated by all their Subjects with Prayers and Thanksgivings to Almighty GOD. That this is what may be done by Secular Princes is allowed by the Canonists.

B

Thus,

*De offi. Archiepres. c. 1. v. auc. toritate Ecclie.* Thus, for Instance, *Lindwood. Quadam sunt solemnitates sive ferie quæ non indicuntur ab Ecclesia, sed Aliunde; viz. a principibus secularibus, quandoque propter victoriam habitam de hostibus; vel quia tali die uxorem duxit; vel quia ei filius natus est; Et hæc dicuntur \* feria repentina.* Nor is it, I suppose, disputed that our Princes have, by their *Prerogative Royal*, an Especial Power, Pre-eminence, or Privilege over and above other Persons, by the Common Law or Customs of this Realm, in the Right of their Crowns; or a Power to provide for particular Exigencies, either in Church or State, which cannot be provided for by any established Law.

*Canons 1603. No. 2.* It's certain our Acts of Parliament acknowledge such a *Prerogative Royal* to belong to our Kings; witness 25 *Hen. VIII. c. 19.* Our Canons do the same, affirming that *the King's Majesty hath the same Authority in Causes Ecclesiastical, that the godly Kings had among the Jews, and the Christian Emperors of the Primitive Church.* A Part of which Authority, if we may believe the Convocation of 1640, was the causing their Inaugurations to be publickly celebrated by all their Subjects with Prayers and Thanksgivings to Almighty God. Our Parliaments have always done the same, who have often addressed our Kings and Queens to make use of this their *Prerogative Royal* in proclaiming occasional Fasts and Thanksgivings. Accordingly, Sir *Edward Cooke* tells us that *Littleton* speaketh of the King's *Prerogative* but twice in all his Books, and in both Places, as Part of the Law of the Land; It extends, he says, to all Powers, Preeminences and Privileges which

*First Part of Insti- tutes, p. 90. b.*

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\* In the *Codex, Lib. iii. Tit. 12 de feriis*, they are called *Imperiales*. On which the *Gloss* is, i. e. *repentinas imperiales appellantur, mutato nomine imperativarum, quæ a Consulibus aut prætoribus imperabantur.*

which the \* Law giveth to the Crown, which are stiled by our Lawyers, *Libertas, Privilegium Regis, Droit le Roy, Regium, and Jus Regium Coronæ.*

The only Question then seems to be whether this Prerogative Royal, or Authority of our Kings, which they have by the Law, is any way restrained by the Statutes of the Realm. Now it's certain that by 5, 6 *Edw. VI. c. 3.* it is enacted that none other Day shall be kept, and commanded to be kept Holy-day, — that none other Even or Day shall be commanded to be fasted, than the Days mentioned in that Act. But then we are to remember that these are such Holy-days as the Canonists call *seria solennes*, such as (to use the very Words of the Act) were to be observed yearly from henceforth. — Such Time and Times as yearly shall be thought convenient. Thus the 5th of Nov. the 30th of Jan. the 29th of May, being for ever hereafter set apart to be kept and observed, are established by particular Acts of Parliament; and by the Reviewers of our Liturgy, *A. D. 1662*, are stiled certain solemn Days. But there is certainly a Difference betwixt these Holy-days, and such Fasts or Thanksgivings which are only appointed *pro hic & nunc*, or for a particular Occasion only. And therefore, however the Authority of our Princes may be restrained, by our several Statutes, from commanding to keep any other Holy-day, or Days, to be fasted on, than what is already com-

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\* *Omnia Jura Humana, aut sunt Lex Naturæ, Consuetudines vel statuta. Fortescue de laudibus Legum Angliæ. The same Distinction is made by our Legislature betwixt the Laws, Statutes and Customs of this Realm; 25 Hen. VIII. c. 19. By Vertue of this Prerogative of our King's is, as I take it, the New Translation of the Bible made in King James I's Reign, and printed 1612, read in our Churches, notwithstanding the 80th Canon requires the Church Wardens A. D. to provide the Bible of the largest Volume, or the Bishop's 1603. Translation, which is so called by the Canons 1571, and was published A. D. 1565.*



commanded to be kept *always*, and in all *succeeding Ages*; yet it does not appear that they are any where restrained from commanding to keep an Holy-day annually during their own Reign, or to order publick Thanks to be given for any publick Mercy, or to proclaim an occasional Fast on Account of any threatening Judgment.

I confess the Convocation 1603 seems not to have attended to this Distinction of *solemn* and *occasional* Fasts, when in their 72d Canon they order that *no Minister shall, without the Licence and Direction of the Bishop of the Diocese first obtained, and had under his Hand and Seal, appoint or keep any Solemn Fasts, either publickly, or in any private Houses, other than such as by Law are, or by publick Authority shall be appointed.* It is plain that the Fasts here meant are such as the Canonists call *jejunia repentina*, or occasional Fasts. And these the Canon supposes may be observed by the *Licence and Direction of the Bishop*; and plainly distinguishes betwixt such Fasts as are already appointed by *Law*, or by our Acts of Parliament, and such as shall be appointed by \* *publick Authority*, or the Prerogative Royal of our Princes. However, if the Ministers of this Church may with the Licence, &c. of the Bishop, under his Hand and Seal, appoint or keep *Fasts*, either publickly, &c. one would think they might be safe in keeping such occasional Fasts or Thanksgivings which are appointed by the Authority of the King; and for the better Observation of which, Prayers are sent to them by the Bishop of the Diocese.

II. What Authority the Kings or Queens of *England* have to command publick Prayers to be used

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\* 13, 14 Car. II. c. 4. §. 25. By lawful Authority, is plainly meant the Authority of the King or Queen.

used suitable to the particular Occasions of those Fasts and Thanksgivings as are indicted or appointed by them. This is a Power that has long been claimed and put in Use by our Princes; and which, so far as I know, has never been questioned till now, by any but those who were either heated with Resentment, or were against all prescript Forms of Divine Service in the publick Worship of God. Queen Elizabeth thus expresses it in her Letter to Archbishop Parker.

See Ad-  
vertise-  
ment at  
the Begin-  
ning.

\* By the Quene,

**M**OST Reverende Father in God, Ryght Trusty, and Ryght Wel-beloved, we Grete you well. Upke as Almighty God hath of his mere Grace committed to us, nexte under hym, the Chief Governement of this Realme, and the People therein: So hath he, of his lke Goodnes, ordered under us sundry Principal Ministers to serbe and assist us in this Burden. And therefore, considering the State of this present Tyme wherein it hath pleased the most Hyghest, for thamendment of us and our People, to visit certayn Places of our Realme with more Contagious Sicknes then lately hath ben: For Remedy and Mitigation thereof, we thynk it both necessary, and our bounden Dutie, that universall Prayer and Fastyng be more effectually used in this our Realme. And understanding that you have thought and considered upon some good Order to be prescribed thereyn, for the which ye require Thapplication of our Authoritie, for the better Observation thereof amongst our People; we do not onlye commend and allow your good zeal therein; but do also commaunde all manner our

At.

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\* Imprinted at London, in Powles Church-yarde, by Richarde Jugge and John Cawood, Printers to the Quenes Majestie,

Cum privilegio Regiæ Majestatis.

Ministers Ecclesiasticall or Civill, and all o-  
ther our Subjectes, to execute, follow, and  
obey such godly and hollesome Orders, as  
you being Primate of all Englande, and Metro-  
politane of this Province of Canterbury, upon  
godly Advise and Consideration shall uni-  
formely devise, prescribe and publyshe, for the  
Universall Usage of Prayer, Fastyng, and o-  
ther good Deedes, during the Time of this  
Distitation, by Sicknes and other Troubles.

Given under our Signet at our Manour  
of Richmond, the first Day of August,  
the Fifth Yere of our Reigne.

The Religious Arch-bishop, had devised a  
Form of Prayer to be used in his own City of  
Canterbury, on this sad and melancholy Occasion,  
but was desirous that *universal Prayer and Fasting*  
should be used throughout the Kingdom. This  
he knew he could not effect by his own Authority;  
the Bishops of this Kingdom being, as his Grace  
wrote to Secretary Cecil, *holden within certain Li-  
mits*, or having their Power confined to their re-  
spective Provinces and Diocesses *by Statutes*. He  
therefore required *the application* of the Queen's  
Authority, for the better Observation of the good  
Order he had thought upon. And this her Ma-  
jesty here grants.

The same Authority has all this excellent  
Queen's religious Successours exercised ever since,  
as might be very distinctly and particularly pro-  
ved: an Authority as their Proclamations express  
it, of giving Directions to the Arch-bishops  
and Bishops of this Kingdom, to compose a  
Form of Prayer suitable to the Occasion, to be  
used in all Churches and Chapels, and other  
places of publick Worship, and to take Care  
for the timely dispersing thereof through their  
respective Diocesses.

Strypes  
Life of  
Arch-bp.  
Parker.  
p. 131.



By the *second* of the Canons 1603. They who affirm that the Kings and Queens of this Realm have not this Authority are ordered to be *excommunicated ipso facto, and not to be restored, but only by the Arch-bishop, &c.* For nothing can be plainer, than that *the godly Kings among the Jews* had, and exercised this Authority of ordering publick Prayers suitable to the various Occasions of those Fasts and Thanksgivings, which they commanded to be observed. Almost the whole Book of *Psalms* is a Proof of this. And to say that there can be no need of any such Occasional Prayers, I take to be as wild an Insult on the common Sense of Mankind, as the Attempt to persuade them that consecrated Bread and Wine do no part of them pass into the Draught.

The Episcopal Authority, its certain, extends to the ordering the Liturgy or publick Service for their own Diocesses on all *ordinary* and *extraordinary* Occasions. This Authority was long exercised in this Kingdom, where we had, before the Reformation, the Use of *Sarum*, of *Hereford*, of *Banger*, of *York*, of *Lincoln*, and of *St. Paul's*. These were Liturgies originally provided by the Bishops of these respective Diocesses; and 'tis not much to be doubted, but that other Diocesses had likewise their particular Liturgies, till their Bishops thought fit to lay them aside, as it was usual for them to do at that time, for the sake of having the Use of *Sarum*, of which both Clergy and People grew very fond, for the sake of the New Song therein prescribed. Thus we are assured that A. D. 1414. *Richard Clifford*, then Bishop of *London*, by the Consent of the Dean and Chapter, ordained that from the *first Day of December* following, beginning then at *Vespers*, the solemn Celebration of Divine Service therein, which before that time had been according to a peculiar Form anciently used, and called *Usus sancti Pauli*, should thenceforth be conform-

Bingham's  
Origines  
Eccle. Lib.  
II. c. 6.  
Lib. XIII.  
c. 5.

Dugdale's  
History of  
St. Pauls.  
p. 24, 25.

formable to that of the Church of *Salisbury*, for all canonical Hours both Night and Day.

This Power of the Bishops was *in part* restrained in this Kingdom at the happy Reformation. It being thought proper, that *the whole Realm* should have but one Use; it was enacted, that **All and singular Ministers in any Cathedral or Parish Church——shall——be bounden to say and use the Mattens, Even-song, Celebration of the Lords Supper, commonly called the Mass, and Administration of each of the Sacraments, and all their common and open Prayer in such Order and Form as is mentioned in the same Book, and none other, or otherwise :**

**1 Eliz. c. 2.** That no one should use any other open Prayers than is mentioned and set forth in the Book of Common Prayer, &c. or cause any Parson, &c. to sing or say any Common or open Prayer——otherwise, or in any other Manner and Form than is mentioned in the said Book. By which undoubtedly is intended that *the Service of the Church*, or Common Prayers, should in all Places of this Kingdom be said and used in the same Order and Form, and in none other or otherwise. Thus it is elsewhere expressed, **That no Form or Order of Common Prayers, Administration of Sacraments, Rites or Ceremonies shall be openly used in any Church, Chappel or other publick Place——other than what is prescribed and appointed to be used in and by the said Book.**

**13, 14 Car. II. c. 4.**

Some zealous Men, to serve a Cause, have indeed fancied, that by these Acts *no other open Prayers* are to be used than what are contained in the Book of Common Prayer. But they ought to remember, that by these very Acts *open Prayers* are explained to mean what is *commonly called the Service of the Church*, which neither these Occasional Forms, nor the Forms of Prayer before or after Sermon are ever called.

Besides

Besides, by the same Acts, Any Prayer taken out of the Bible is allowed to be used openly at any one time, not letting or omitting thereby the Service or any part thereof, mentioned in the said Book. This seems to make it very plain, that by other open Prayers are meant only such as are used instead of those in the Book of Common Prayer in *violation* of or opposition to them, or to the letting or omitting of them. And so we are assured these Words were interpreted by the Judges, 1 Jac. II. They knew very well that these Laws were only intended to establish the Service of the Church, or the stated ordinary Forms of Divine Worship: that there were extraordinary Occasions for which Provision was to be made by the Queen, and her Bishops, without incurring any of the Penalties of these Acts.

2. 3. Edw. VI. c. 1. §. 7.  
Bp. Gibson's Codex, p. 306.

According to this plain and natural meaning of these Laws, have our Bishops always acted. Tho' their Authority was restrained as to the Service of the Church or the stated Forms of Divine Service, they yet thought themselves at liberty to compose new Forms for extraordinary Emergencies and Occasions.

Thus have they ever since the abolishing the Roman Pontifical used Forms of Prayer of their own composing, in the Consecration of Churches and Chappels. In Q. Elizabeth's Reign our Bishops used frequently of their own Authority to devise Forms of Prayer, and to order the Use of them in their own Cities and Diocesses. Thus Arch-bishop Parker prescribed a Form of Prayer and Fasting to be used in the City of Canterbury on Account of the Pestilence and Famine at that time in the Kingdom. So Bishop Grindal the same Year let forth a short Form of Thanksgiving to God, for ceasing the contagious Sickness of the Plague — to be used in the City of London, and the rest of his Diocese. Of Thirteen Sermons of Bishop Jewel's,

Strype's Life, &c. p. 131.  
Jan. 22, 1563.



Printed  
for Mat-  
thew Lawe  
1606.

printed at the end of his Works, Six of them are concluded with a Prayer; and, to name no more, Barlow Bishop of Rochester, at the end of his Sermon preached at Pauls Cross the Tenth Day of November, being the next Sunday after the discovery of the Gun-powder Treason, used one of the Prayers which was next Year printed in the Book of Thanksgiving for this Discovery and Delivery, but made by himself. So have our Bishops and Clergy used Forms of † Prayer of their own composing, before and after their Sermons, ever since the Reformation. Would they have thus acted, had they in the least thought that in so doing, they acted against both Statute and Canon, and in particular subjected themselves to the severe Penalties of the Acts of Uniformity?

As to the Queen her self, she was so far from understanding, by the Words *other open Prayers*, all Prayers whatsoever to be used in publick, besides those in the Book of Common-prayer, that in her Statutes for the University of Cambridge, given at her Manor of Reding, 25 Septem. Anno Regni 12. & Anno Christi 1570, she has prescribed a Form of Prayers to be used after Sermon the first Day of every Term, for the Commendation of the Benefactors to the University; which, because it is not printed, that I know, I will here add.

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† Pulpit Prayers of private Composition, besides what they have been formerly, or are at this time in other Churches, are now allowed of by our own Church. Mr. Kettlewell of Christian Communion. P. 107. ed 4<sup>o</sup>. 1693.

By the Divine Permission, as well as by the Custom of the Church, and His Majesties Allowance. — Ministers may use their own Gifts before and after their Sermons in Prayer and Praises, besides the Liturgy, Bp. Gauder's Consideration touching the Liturgy, p. 39.

¶ *Post concionem peroratum cantabunt anglice.*  
 Te Deum; Laudate Dominum in Cælis;  
 Cantate;  
 Laudate Dominum in Sanctis. *Ad finem Psal-*  
*morum dicent.*

V. The memorie of the righteous shall remaine  
 for evermore.

R. And shalle not be afraide of any evil report.

V. The Lord be with you.

R. And with thie Spirit.

*Let us pray.*

**O** Lorde, we glorifie Thee in thie Servants,  
 our Founders, and Benefactors, departed  
 out of this present Wourlde, beseeching thee,  
 that as theie, for their tymes, bestowed charita-  
 blye, for our Comforte, the Temporall Things  
 which thou did so geave them: Soe we, for our  
 tyme, may fruetfully use the same to the setting  
 furthe of thie holy Wourde, and the Laude and  
 Praise of thie Holy Name, throughe Jesus Christ  
 our Lord, *Amen.*

It will perhaps be said that her Majesty, in  
 her Letters Patents prefixed to the Book of  
 Common-prayer in *Latin* published 1560, in  
 Effect owns that these Prayers are contrary to  
 the Statute of Uniformity, and therefore dis-  
 penses with it. But it's easy to answer, 1. That  
 these Prayers are not at all mentioned in her  
 Majesty's Letters, but only *peculiariorum quædam in*  
*Christianorum funebribus decantanda*; or the Form  
 of celebrating the Supper at Funerals, which her  
 Majesty says she has added to the Book: 2.  
 The *Non Obstante* plainly refers to the Litur-  
 gie's being in *Latin*. Thus the Letters are ex-  
 pressed; — *una lex lata est ut preces publicæ,*  
*una & eadem certa & prescripta forma, lingua*  
*vulgari, & vernacula, passim in Ecclesia An-*  
*glicana haberentur*; But that being addressed

by the two Universities, the Colleges of *Winchester* and *Eaton*, that they might use the said Service in *Latin*; she being desirous to please every Member of her Common-wealth, and to consult both the Necessity of those that don't understand *Latin*, and the Pleasure of those that do, does, by these presents, make it lawful for them to use the following Book, to which she had added *Celebratio Cena Domini in funebribus*, &c. notwithstanding the foresaid Statute, &c. — For tho' by 2. 3. *Edw. VI. c. 1.* it was lawful to use and exercise in their common and open Prayer, in the Chappels in the two Universities, the Mattens, Even-song, Litany and all other Prayers, except the Holy Communion, in *Greek, Latin or Hebrew*, there was no such saving Clause for the Liturgy as it was reviewed in Queen *Elizabeth's* Reign, nor for the Colleges of *Winchester* and *Eaton*.

But to shew yet further that the Kings and Queens of this Realm have Authority to require occasional Prayers to be used, K. *James I.* after the *Hampton-Court* Conference, appointed a select Number of Bishops, &c. to review the Liturgy; The Consequence of which was, that besides a great many other little Alterations, A Prayer for the Queen and Prince, and other the King and Queen's Children, was added in the Litany: and five occasional Forms of Thanksgiving just after it. This the Royal Proclamation prefixed to this Book declares to have been done according to the Form which the Laws of this Realm in like Case prescribe to be used. The same is asserted by the Bishops and Clergy in their Convocation 1603. That the Book of Common-prayer was lately explained in some few Points by his Majesty's Authority, according to the Laws, and his Highness's Prerogative in that Behalf. If now the ordering or appointing other Prayers and Thanksgivings, upon several Occasions than are already



dy in the Book of Common-prayer, be according to Law (as is here asserted by the King, the Privy-Council, and the Convocation of the Prelates and Clergy of both Provinces) it must sure be a Transgression not to use these Prayers.

I'm not insensible that the *Parisians*, at that Time, objected to this Proceeding of the King's. Moreover, say they, there are sundry Prayers put into the present Liturgy, which are not confirmed by Parliament; which Additions, altho' useful, are not legally ratified. But this we see was directly contrary to the Sense of our Legislature at that Time. Tho' indeed after the Restoration, so far a Regard seems to have been had to the Clamours of those who opposed the Prerogative Royal, as to insert a Clause into the Act of Uniformity, That in all those Prayers, [in the Book of Common-prayer] *Vitanies*, and *Collects* which do any way relate to the King, Queen, or Royal Progeny, the Names be altered and changed from Time to Time, and fitted to the present Occasion, according to the Direction of lawful Authority; or of the King or Queen in Council. Thereby intimating that the King or Queen shall not direct any other Alterations or Changes in those Prayers, &c. which are in the Liturgy. But then there is not the least Intimation that they have no Authority to appoint other Prayers suitable to the Occasion.

Necessity  
of Reformation,  
p. 14.

13. 14.  
Car. II.  
c. 4.

\* The Prayer for the Queen, &c. as inserted in the Liturgy 1603, thus began. Almighty God, which has promised to be a Father of the Elect, and of their Seed. This in a Form of Prayer, &c. set forth by Authority, 1626, was thus altered; Almighty God, the Fountaine of all Goodness; which Alteration was, it seems, afterward inserted in the Liturgy. This occasioned very great Clamours, the Alteration being suspected to have been made in Favour of Arminianism. How far these and other Clamours afterwards prevailed, even to the Subversion of our ancient Government in Church and State, is needless for me to tell.

ons there may be for Days of Fasting or Thanksgiving. This is a Power the Legislature knew the Kings and Queens of this Realm claim'd and exercis'd, as well as that of explaining the Book of Common-prayer. And had there been therefore any Design to restrain this Power, it would certainly have been restrained as well as the other. But so far have the Lords Spiritual and Temporal, and the Commons in Parliament, been from restraining this Authority of the Kings, that, as it's owned, they have concurred with the Crown in the Use of it, addressing the King to order such occasional Fasts, &c. and being present at the Performance of the Offices appointed for those Occasions. Tho', I confess, I can't see, if by the Words, *other open Prayers* in the Act of Uniformity, be meant any other Prayers than those in the Book of Common-prayer, that this Concurrence of the other Parts of the Legislative Authority will save the Clergy who use these other Prayers from the Penalties of the Act.

A late Writer has propos'd a Cure for this Guilt, to use his own Words; but, in my Opinion, a Cure that's worse than the Disease. It's this: *It's certain, says he, the Crown hath now a Prerogative, tho' not a legal Power of dispensing with these Statutes, by appointing Occasional Holidays and Fasting Days, and directing Prayers to be drawn and used on those Days.* He says afterwards, *That this dispensing Power is allowed by the two Houses of Parliament.* But to this I answer, 1. The King's \* Prerogative Royal is a legal Power, or a part of the Laws of the Land. 2. This Prerogative of the Kings legally extends only to all Powers, Pre-eminences and Privileges, which the † Law or

Coke's  
Insti. p.  
90. b.

\* If ever Prince was declared to be Sovereign by Law — it is the King of England. Dr. Hicks's Harmony, &c.

† The custom'd and ancient Laws of this Realm originally established as Laws of the same by the said Sufferance, Consents and Customs. 25. Hen. VIII. c. 21. Use

Use and Custom giveth to the Crown. 3. The Common Law or Use and Custom has not given this Power to the King, to *dispense* with Statutes. Rex Leges, saith that great Lawyer Fortescue, *sine De laud. subditorum assensu mutare non potest: Potestas Regia legum Anglia. Lege cohibetur.* 4. There's no need of any *dispensing* Power in the present Case; The proclaiming an Occasional Fast, &c. and ordaining the Use of Prayers suitable to such Occasions being forbidden by no Law, either Statute, Canon, or Custom; so far from it that the King is asserted to have a Power to do both by the two latter. 5. It is not true that this *dispensing* Power is allowed by the Two Houses of Parliament. On the contrary, they have often protested against it, and declared it to be against Law: Particularly A. D. 1663, 1672, when K. Charles II. had published his Declaration granting an *Indulgence* to some Protestant Dissenters. Thus Dr. Hicks represents their Conduct: Both Lords and Commons saith he, represented to His Majesty the mischievous Consequence of such a lawless Toleration: The Case of Sir Edward Hales Bart. of Hackington als St. Stevens in Kent is well known. And what the Sense of the Nation was in 1687 concerning K. James II. *dispensing* with the Penal Laws in favour of the Dissenters, &c. cannot be quite forgot.

But it's further urged, that the Laws are the Kings Laws, and that therefore the King may *dispense* with them. To this it has been many Years ago answered; 'That this Argument is of a vast extent in the Consequence, as that of the Sovereignty is, but that it is not the King alone that makes the Law; (even this Advocate for the *dispensing* Power allows, that the consent of the Two Houses of Parliament is necessary to enact them;) 'And tho' they are indeed the King's Laws *per eminentiam* and *Dominatio* *sumitur*

Harmony  
of Divini-  
ty & Law

Sir Robert  
Atkins of  
the *dispens-  
ing* Power.

and Mr  
Atkins



submit a major, yet others have an Hand in the making our Laws, and a Propriety and Interest in them when once they are made. It will perhaps be said that it is not intended to assest a Power to the King to *abolish the Law*, but only to *dispense with it for once and away*, or *pro his curia*. 1. 6. Whenever the King pleases. And if this be not to make the whole Book of Statutes entirely depending on the King's Pleasure, so as that they shall be in Force or not, just as He pleases, I don't know what is. For my Part, I can't see how we are at all the better for our Laws, if the King by his Prerogative may, whenever He pleases *dispense with them*, or consent that his Subjects should act contrary to them, without suffering the Penalties enacted by them.

O Pray for the Peace of Jerusalem: they shall prosper that love thee.

Because of the House of the Lord our GOD: we will seek to do thee good. Psal. 122. 7. 2.

It will perhaps be objected further; I. That the Clergy are obliged by Canon XXXVI. to subscribe to the following Article:

That they will use the Form in the Book of Common-Prayer, prescribed in publick Prayer and Administration of the Sacraments, and none other.

Tit. De-  
cani  
Eccl. Ca-  
the.

Tit. Can-  
cella.

II. That by the Canons 1571, It is decreed that the Deans and Residentiaries shall take Care that no other Form be observed in singing or saying the Holy Prayers or Administration of the Sacraments, besides that which is proposed and prescribed in the Book of Common-prayer. And that the Clergy observe the Orders and Rites described in the Book of Common-prayer, as well in reading the Scriptures and saying the Prayers, as in the Administration

of the Sacraments, and neither add nor diminish ei-  
ther in the Matter or Form.

But to this the same Answer will serve as has  
already been made to the very same Objection,  
taken from the Acts of Uniformity, viz. That by  
the Words *none other Form*, is meant *no other Service*  
of the Church, to the letting or omitting thereby the  
Service, or any Part thereof, prescribed in the Book of  
Common-prayer.

It will be said that if we use the occasional  
Forms directed, by lawful Authority, to be u-  
sed on the Days of our Kings and Queens Ac-  
cession, and the publick occasional Fasts and  
Thanksgivings, we must thereby *let or omit* the  
Service, or some Part thereof, mentioned in the  
Book of Common-prayer; Because the *Collects*  
therein appointed must be used instead of the  
*Collect for the Day*, beside the *Psalm* or  
*Hymn* prescribed to be used instead of the *Venite*;  
and the *Psalms, Lessons, Epistle and Gospel*, there  
provided, instead of those prescribed by the  
Book of Common-prayer.

But to this I beg Leave to reply, 1. That  
these occasional Forms are not what is com-  
monly called the *Service of the Church*, and there-  
fore are not *other open Prayers* in the Sense of our  
Acts of Uniformity. 2. These occasional Forms  
are not used *instead* of the Service of the Church,  
nor do not cause it to be *let or omitted*. The  
Book of Common-prayer orders indeed, that  
the Curate that ministrETH in every Parish-Church or  
Chappel, shall say the Morning and Evening Pray-  
er in the Church or Chappel where he ministrETH.  
Suppose this to be done daily by him: How  
does the Use of these occasional Forms cause  
him to *let or omit* his doing this? Are there not  
Hours enow in the Day for him to do the  
One, and not to leave the Other undone? But  
the Rubrick supposes the Curate may be other-  
wise

wise reasonably bindred, so as that he may not say daily the Morning and Evening-Prayer in his Parish Church! Is not his obeying the Commands of lawful Authority, in observing, as that directs, an occasional Fast or Festival, a reasonable Hindrance? I hope it will be thought much more so than what is commonly suggested as the Reason for neglecting so religious a Duty.

Queen  
Anne's  
Proclama-  
tion for a  
General  
Fast, 1704

But it will be further asked; What is the Penalty to be inflicted on those who disobey these Religious Commands of lawful Authority? I answer, 1. Such as the King or Queen may justly inflict on all such as shall contemn or neglect the Performance of so Religious Duties, as fasting and humbling ourselves, and giving God Thanks for his Mercies and Deliverances. 2. We are to obey not only for Wrath, but Conscience sake. 3. They who affirm that the King's or Queen's Majesty hath not the Authority here ascribed to them, the same that the godly Kings had among the Jews and Christian Emperors of the primitive Church, are declared excommunicated ipso facto. 4. The Clergy may be censured for a Breach of their Ordination Vows, whereby they obliged themselves reverently to obey their Ordinary and other Chief Ministers, unto whom is committed the Charge and Government over them, and for not fearing the Oath they have taken of performing true and canonical Obedience to their Bishop.

As to the Cavils about the Matter of these occasional Prayers, as if they which are now enjoined obliged them that used them to such a Degree of Zeal and Affection for his Majesty, as cannot properly and effectually be commanded by the greatest Humane Authority: I shall only say that whoever compares them with the Form of Morning and Evening-Prayer in the Liturgy will not find that there are any higher Expressions



ons of Zeal and Affection for the King, in the oc-  
 casional Forms, than are in the Book of Com-  
 mon-prayer; at which no one would Cavil who  
 sincerely thought it his Duty to honour and obey *Ch. Cato.*  
 the King, and all that are put in Authority un- *chism.*  
 der him. Much less will I stay to consider the  
 Means proposed to evade these Prayers, viz. that  
 the Clergy make a publick Declaration that they read  
 them only as enjoined them by their Superiors, and  
 do not offer them to God as the Sense or Desire  
 of their own Hearts; a Fetch which ought not  
 to be so much as named among Christians!  
 This is even worse, if possible, than Arian  
 Subscription; an open Prophanation of Holy  
 Things; and making the House of Prayer a  
 Den of \* Knaves. If this be a prevailing  
 Practice among us, that we draw near the Lord *Isa. XXIX*  
 with our Mouths, but have removed our Hearts *13, 14.*  
 far from him; it's no Wonder that we are so  
 much in Danger of the Punishment threatened,  
 to such an impious Practice, viz. that the  
 Wisdom of our wise Men shall perish, and the  
 Understanding of our prudent Men shall be  
 hid.

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\* In publick Fasts or Thanksgivings, where the very  
 Meeting or Assembling is made significant of any Purpo-  
 ses, to be present at them is a Profession of what is signi-  
 fied by them. And it is insincere for those who abhor  
 that Design, which they are appointed to carry on, to  
 afford them their Presence, or meet at them. Mr. Kee-  
 lewell of Christian Communion, p. 107. Mr. Strype tells  
 us of a Bishop in King Edward VI's Reign that was disaffec-  
 ted to the Reformation, who used to say, Laws must be obey'd,  
 and Civil Ordinances I will follow, but my Heart in Reli-  
 gion is free to think as I will.

...of the King, in the oc-  
...A. D. 1642.

**T**O aggravate the Grievance and Mens Passions, to make them more violent against their Governours: It is suggested that every one of the occasional Offices costs the Nation Five Hundred Pounds, at least, in Fees the Apparitors, besides the Charge of the Government in Printing them. But what would the Mass have said had he lived in King Charles I's Time when every Parish was obliged to take Two Books, for which the Church-Wardens paid Two Shillings and Six Pence to the Apparitor. Whereas now there is but one Book distributed to every Parish, for which nothing is demanded and it's well known the Shilling given to the Apparitor, is more a Matter of Courtesy than Right. What the Charge of the Government is in Printing them I can't say. But was a private Person to Print them, the Largest Office of All, which does not exceed Six Sheets, would not cost him Fifty Pound: A prodigious Expence to a whole Nation once perhaps in Two or Three Years!

Collect. of  
Canons,  
A. D.  
1454. pre.



\* So I find it noted on a spare Leaf, before A Form of Common-Prayer to be used on the 28th of July, 1642, which Day a Fast was appointed by his Majesty's Proclamation for the Averting of the Plague, &c. See Canon II. 1642.